

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

VASQUEZ, Omar

Defendant,

Magistrate **08 MJ 1384**
Case No. **08 MJ 1384**

COMPLAINT FOR VIOLATION OF:

Title 8 USC Section 1326 DEPUTY

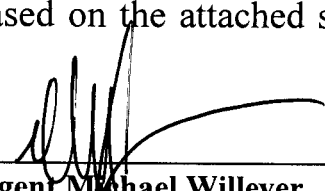
Deported Alien Found in the United States

(Felony)

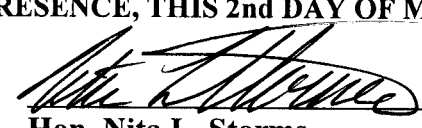
The undersigned complainant, being duly sworn, states:

On or about April 30, 2008, within the Southern District of California, Defendant Omar VASQUEZ, an alien, who previously had been excluded, deported and removed from the United States to Mexico, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


Special Agent Michael Willever
U.S. Immigration & Customs Enforcement

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 2nd DAY OF MAY, 2008.


Hon. Nita L. Storms
U.S. Magistrate Judge

STATEMENT OF FACTS

The complainant states that the Defendant, Omar VASQUEZ, came to the complainant's attention pursuant to the complainant's duties with U.S. Immigration and Customs Enforcement (hereinafter referred to as ICE). On April 30, 2008, the Defendant was brought to the complainant's attention by Deputy Mike Myers of the San Diego County Sheriff's Department (SDSD), who was speaking with the defendant during a consensual contact in Vista, California.

The complainant researched the Defendant's immigration history. Documents from the Defendant's alien file, to include a form I-213 (Record of Deportable/Inadmissible Alien) were reviewed. This form identifies the Defendant as a native and citizen of Mexico born June 30, 1979. Additionally, the complainant observed a judge's order of removal dated September 30, 2007. A form I-205 (Warrant of Deportation/Removal), upon which is the Defendant's photograph and fingerprint, was also seen by the complainant. It is this latter form that documents the Defendant's physical removal from the United States to Mexico on October 1, 2007, through the port at Calexico, California.

On the morning of May 1, 2008, the defendant was released in to the custody of ICE. The defendant's fingerprints were queried then through the IDENT system. This yielded a match to the Defendant's immigration file and history.

At approximately 8:45AM, the complainant read to the Defendant his Constitutional rights in the English language. He claimed to understand his rights and further indicated that he was willing to answer the complainant's questions at that time. ICE Special Agent Michael Haynes witnessed this admonishment and the interview that followed. During interview, the Defendant claimed to be a citizen of Mexico, born June 30, 1979, in Mexicali, Baja California, Mexico, to Mexican parents. He further admitted to having been deported previously and to having achieved his most recent entry to the United States at an unknown place. The defendant stated that he used an alien smuggler to facilitate his illegal crossing into the United States. The defendant declined to state where exactly he entered the United States, stating that it may have been in California or Arizona. He denied having applied for or received permission to lawfully return to the United States after deportation.

A review of the records maintained by the U.S. Department of Homeland Security yields no evidence that the Defendant has applied for or been granted permission to lawfully return to the United States after deportation.